THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.11528 OF 2006

DATED: 08TH SEPTEMBER, 2006.

Between :

1. P. Srinivas Gowd and another. .. Petitioners

And

1. The Superintendent, Proh. & Excise,
   Adilabad, Adilabad District;
   And 4 others. .. Respondents

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ORDER :

The petitioners herein claim to be the TFT Licence-holders in Ratnapur-K village, Nirmal Mandal, Adilabad district. Earlier, they filed W.P.No.24431 of 2005 alleging that the respondents were proposing to grant licence in favour of the 5th respondent herein in Ratnapur-K village in spite of the fact that he was not a resident of the said village. The said writ petition was disposed of by order dated 16-11-2005 with a direction to the 1st respondent – Superintendent, Prohibition & Excise, Adilabad to consider and dispose of the representation made by the petitioners dated 10.10.2005 in accordance with law after giving reasonable opportunity to the petitioners as well as the 5th respondent within eight weeks. Pursuant thereto, the 1st respondent herein, having called for the reports from the Station House Officer, Nirmal and Assistant Excise Superintendent and having heard both the parties, by order dated 23-5-2006 rejected the objections raised by the writ petitioners and accordingly directed the 5th respondent to submit the necessary documents together with the Earnest Money Deposits and renewals for issue of TFT counter licence. Aggrieved by the said order, this writ petition is filed.

I have heard the learned Counsel for the petitioner as well as the learned Government Pleader for Prohibition & Excise appearing for the respondents 1 to 4 and the learned Counsel appearing for the 5th respondent.

It is primarily contended by the petitioner that in spite of the specific direction by this Court, the 1st respondent failed to issue notice to the petitioners. It is also contended that the finding recorded by the 1st respondent that the 5th respondent is a native of Ratnapur-K village is incorrect and not based on the material on record.

In the counter-affidavit filed on behalf of the respondents 1 to 4, it is reiterated that 5th respondent is native of Ratnapur-K village and that he also passed the tapping test conducted by the authorities.

The impugned order itself shows that the Mandal Revenue Officer, Nirmal submitted a report stating that the 5th respondent is residing at Ratnapur-K village since 1 ½ years and his name is included in voters list at Sl.No.366 with Photo Identity Card.

The impugned order also shows that the petitioners attended the enquiry on 12-5-2006 and produced certain documents in respect of the objections raised by them.

The learned Counsel for the petitioner does not dispute the said fact, however, states that the petitioners sought further time for producing some more documents which was not accepted by the 1st respondent.

The learned Counsel for the petitioner vehemently contended that the petitioner's name was also entered in the voters list of Wadyal village, Laxmanchada Mandal, Adilabad district and therefore the finding recorded by the 1st respondent is incorrect.

The correctness of such a finding of fact recorded by the competent authority cannot be gone into in exercise of jurisdiction under Article 226 of the Constitution of India. If the petitioner is aggrieved, it is open to him to avail the remedy of appeal available under Section 63 of the A.P. Excise Act, 1968, in which event, the appellate authority, after conducting necessary enquiry, will pass appropriate orders in accordance with law.

Accordingly, the Writ Petition is dismissed. However, this shall

not preclude the petitioners to work out the remedy of appeal as available under law, if so advised. No costs.

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G. ROHINI, J.

Dt. 8-9-2006

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